IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

APPEAL FROM ORDER NO.950 OF 2004
IN
NOTICE OF MOTION NO.4380 OF 2004
IN
L.C. SUIT NO.4978 OF 2004

Deepak R. Jadhav).. Appellant (Org.Plaintiff)

versus

Brihan Mumbai Mahanagarpalika).. Respondents (Org.Defendants)

Mr.Shashipal Shankar for the Appellant.

Mr.J.Xavier for the Respondents.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 3RD NOVEMBER 2004

P.C. :

. The Appellant is aggrieved by the order of the trial Court refusing to grant ad-interim relief in respect of the suit structure which is sought to be demolished pursuant to the notice issued under Section 351 of the Bombay Municipal Corporation Act. This notice is dated 12th May 2004. It appears from the order of the Assistant Commissioner who has considered the representation made by the Appellant that no reasons are given by him to arrive at a conclusion that the structure for which the notice has been issued is not a tolerated structure. In these circumstances, it would

be appropriate to permit the Appellant to make a fresh representation to Assistant Commissioner by annexing additional documents which he wishes to rely upon to prove that the structure was authorised within three weeks from today. The Assistant Municipal Commissioner will give the Appellant a hearing and decide the representation within four weeks thereafter and communicate the order to the Appellant.

2. No action will be taken against the suit structure of the Appellant during this period and for a period of four weeks after the communication of the order to the Appellant.

3. Appeal From Order disposed of accordingly.

4. In view of the Appeal From Order being disposed of, nothing survives in Civil Application No.1308 of 2004 and the same is disposed of accordingly.